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17
18 IN THE UNITED STATES DISTRICT COURT
19 FOR THE DISTRICT OF MONTANA
20 BUTTE DIVISION

21 COTTONWOOD
22 ENVIRONMENTAL LAW
23 CENTER;
24 MONTANA RIVERS; and
25 GALLATIN
26 WILDLIFE ASSOCIATION,

Plaintiffs,

vs.

BIG SKY WATER AND SEWER
DISTRICT; BOYNE RESORTS,

Defendants.

Case No. 2:20-cv-00028-BMM

PLAINTIFFS' MEMORANDUM
IN SUPPORT OF UNOPPOSED
MOTION FOR STATUS
CONFERENCE

1 Plaintiffs Cottonwood Environmental Law Center, Montana Rivers, and Gallatin
2 Wildlife Association filed suit against Big Sky County Water & Sewer District No. 363
3 and Boyne USA, Inc., for their alleged discharge of treated wastewater into the West
4 Fork of the Gallatin River without a National Pollution Discharge Elimination System
5 permit. The district provides water and wastewater services for a resort community at
6 Big Sky, Montana. The district treats and stores wastewater that is then used for
7 irrigation on nearby properties in Big Sky, including a golf course owned by
8 Boyne. The claims against the district were dismissed—some on summary judgment
9 and others as the result of a jury verdict in favor of the district. The Ninth Circuit upheld
10 those rulings on appeal in a decision issued on November 21, 2023, ECF 215, followed
11 by a mandate issued on January 18, 2024, ECF 218. The Supreme Court has granted
12 Cottonwood’s application for extension to file a petition for certiorari. ECF 225.

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17 The claims against Boyne remain to be litigated. They were dismissed by the
18 district court on grounds that the plaintiff had failed to provide adequate pre-filing
19 notice of the claim as required by the Clean Water Act, ECF 204, but the Ninth Circuit
20 reversed that ruling and remanded for further proceedings, ECF 215; ECF 218.

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22 No action has occurred in this district court litigation since the remand, other
23 than the filing of an answer by Boyne, ECF 221, and pro hac vice admission of
24 additional counsel, ECF 224.
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1 Plaintiffs believe a status conference should be held to set the course for litigating
2 the claims against Boyne. The parties have conferred. Boyne has no objection to this
3 request for a status conference.
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5 Therefore, plaintiffs request that the Court set a date for a status conference. (The
6 parties have conferred but have not reached agreement on plaintiffs' suggestion that the
7 Court should require the parties to meet and confer in advance of the status conference
8 regarding various discovery, disclosure and other matters as contemplated by
9 Fed.R.Civ.P 26(f) and Local Rule 26.1.)
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12 Dated this 29th day of April, 2024.

13 Respectfully submitted,

14 COTTONWOOD ENVIRONMENTAL LAW
15 CENTER

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CERTIFICATION OF COMPLIANCE

The undersigned certifies that the foregoing document complies with Local Rule 7.1(d)(2). The Brief contains 340 words, excluding the caption, certificate of compliance, and certificate of service. The undersigned relied on the word count of the word-processing system used to prepare the document.

s/David A. Bricklin